

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION

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CONTENTGUARD HOLDINGS, INC.,	)
	)
Plaintiff,	)
	)
v.	)
	)
GOOGLE, INC.,	)
	)
Defendant.	)
	)

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**ORDER GRANTING AGREED MOTION  
TO MODIFY THE DOCKET CONTROL ORDER**

After reviewing the Agreed Motion to Modify the Docket Control Order, this Court grants the parties leave to amend the infringement and invalidity contentions and modifies the following deadlines in the Docket Control Order (Dkt. No. 46):

<b>Old Deadline</b>	<b>New Deadline</b>	<b>Event</b>
September 14, 2015	Unchanged	9:00 a.m. JURY SELECTION at the United States District Court, 100 East Houston Street, Marshall, Texas 75670, Courtroom of Rodney Gilstrap
July 29, 2015	Unchanged	*Pretrial Conference- July 29, 2015 1:30 p.m. at the United States District Court, 100 East Houston Street, Marshall, Texas 75670, Courtroom of Rodney Gilstrap
July 23, 2015	Unchanged	*Notify Court of Agreements Reached During Meet and Confer.  The parties are ordered to meet and confer on any outstanding objections or motions in limine. The parties shall advise the Court of any agreements reached no later than 1:00 p.m.

July 21, 2015	Unchanged	*File Joint Pretrial Order, Joint Proposed Jury Instructions, Joint Proposed Verdict Form, and Responses to Motions in Limine
July 14, 2015	Unchanged	*File Notice of Request for Daily Transcript of Real Time Reporting. If a daily transcript or real time reporting of court proceedings is requested for trial, the party or parties making said request shall file a notice with the Court and e-mail the Court Reporter, Shelly Holmes, at shelly_holmes@txed.uscourts.gov.
July 14, 2015	Unchanged	File Motions in Limine. The parties shall limit their motions in limine to issues that if improperly introduced at trial would be so prejudicial that the Court could not alleviate the prejudice by giving appropriate instructions to the jury.
July 14, 2015	Unchanged	Serve Objections to Rebuttal Pretrial Disclosures
June 30, 2015	Unchanged	Serve Objections to Pretrial Disclosures; and Serve Rebuttal Pretrial Disclosures
June 16, 2015	Unchanged	Serve Pretrial Disclosures (Witness List, Deposition Designations, and Exhibit List) by the Party with the Burden of Proof
May 19, 2015	Unchanged	*File Dispositive Motions or Motions to Strike Expert Testimony (including Daubert motions) No dispositive motion or motion to strike expert testimony (including a Daubert motion) may be filed after this date without leave of Court
May 15, 2015	Unchanged	Deadline to Complete Expert Discovery.
April 28, 2015	Unchanged	Serve Disclosures for Rebuttal Expert Witnesses.
April 7, 2015	Unchanged	Serve Disclosures for Expert Witnesses by the Party with the Burden of Proof
March 24, 2015	Unchanged	*Deadline to File Letter Briefs Regarding Dispositive Motions

March 20, 2015	Unchanged	Deadline to Complete Fact Discovery and File Motions to Compel Discovery
March 6, 2015	Unchanged	Mediation to be completed.
February 27, 2015	Unchanged	Comply with P.R. 3-7 (Opinion of Counsel Defenses)
February 6, 2015	Unchanged	*Claim Construction Hearing – 1:30 p.m. at the United States District Court, 100 East Houston Street, Marshall, Texas 75670, Courtroom of Rodney Gilstrap
January 23, 2015	Unchanged	*Comply with P.R. 4-5(d) (Joint Claim Construction Chart)
January 23, 2015	Unchanged	Parties to file a notice with the Court stating the estimated amount of time requested for the Markman Hearing. The Court will notify the parties if it is unable to accommodate this request.
November 21, 2014	Unchanged	Submit Technical Tutorials (if any)
January 9, 2014	Unchanged	*Comply with P.R. 4-5(c) (Reply Claim Construction Brief)
December 22, 2014	Unchanged	Comply with P.R. 4-5(b) (Responsive Claim Construction Brief)
December 12, 2014	Unchanged	Deadline to Substantially Complete Document Production and Exchange Privilege Logs Counsel are expected to make good faith efforts to produce all required documents as soon as they are available and not wait until the substantial completion deadline.
December 5, 2014	Unchanged	File Response to Amended Pleadings
November 21, 2014	Unchanged	Comply with P.R. 4-5(a) (Opening Claim Construction Brief)

November 21, 2014	Unchanged	*File Amended Pleadings It is not necessary to seek leave of Court to amend pleadings prior to this deadline unless the amendment seeks to assert additional patents.
November 19, 2014	Unchanged	Comply with P.R. 4-4 (Deadline to Complete Claim Construction Discovery)
November 12, 2014	Unchanged	Comply with P.R. 4-3 (Joint Claim Construction and Prehearing Statement)
October 24, 2014	November 5, 2014	Comply with P.R. 4-2 (Exchange Preliminary Claim Constructions and Extrinsic Evidence)
October 6, 2014	October 29, 2014	DirecTV to comply with P.R. 3-3 and 3-4 (Invalidity Contentions) in related <i>Amazon</i> action
-----	October 29, 2014	Exchange updated infringement contentions pursuant to Paragraph 3(a) of the Discovery Order (Dkt. No. 45) and updated invalidity contentions
October 3, 2014	October 10, 2014	Comply with P.R. 4-1 (Exchange Proposed Terms and Claim Elements for Construction)

## ADDITIONAL REQUIREMENTS

**Notice of Mediator:** The parties are to jointly file a notice that identifies the agreed upon mediator or indicates that no agreement was reached. If the parties do not reach an agreement, the Court will appoint a mediator. The parties should not file a list of mediators to be considered by the Court.

**Summary Judgment Motions:** Prior to filing any summary judgment motion, the parties must submit letter briefs seeking permission to file the motion. The opening letter brief in each of those matters shall be no longer than five (5) pages and shall be filed with the Court no later than the deadline for filing letter briefs. Answering letter briefs in each of those matters shall be no longer than five (5) pages and filed with the Court no later than fourteen (14) days thereafter. Reply briefs in each of those matters shall be no longer than three (3) pages and filed with the Court no later than five (5) days thereafter. The Court may decide the question on the submissions or hold a hearing or telephone conference to hear arguments and to determine whether the filing of any motion will be permitted. Letter briefs shall be filed without exhibits. Any requests to submit letter briefs after the deadlines outlined above must show good cause.

**Indefiniteness:** In lieu of early motions for summary judgment, the parties are directed to include any arguments related to the issue of indefiniteness in their *Markman* briefing, subject to the local rules' normal page limits.

**Motion for Continuance:** The following excuses will not warrant a continuance nor justify a failure to comply with a discovery deadline:

- (a) The fact that there are motions for summary judgment or motions to dismiss pending;
- (b) The fact that one or more of the attorneys is set for trial in another court on the same day, unless the other setting was made prior to the date of this order or was made as a special provision for the parties in the other case;
- (c) The failure to complete discovery prior to trial, unless the parties can demonstrate that it was impossible to complete discovery despite their good faith effort to do so.

**Amendments to the Docket Control Order (“DCO”):** Any motion to alter any date on the DCO shall take the form of motion to amend the DCO. The motion to amend the DCO shall include a proposed order that lists all of the remaining dates in one column (as above) and the proposed changes to each date in an additional adjacent column (as above) and the proposed changes to each date in an additional adjacent column (if there is no change for a date the proposed date column should remain blank or indicate that it is unchanged). In other words, the DCO in the proposed order should be complete such that one can clearly see all the remaining deadlines and the changes, if any, to those deadlines, rather than needing to also refer to an earlier version of the DCO.

So ORDERED and SIGNED this 31st day of October, 2014.



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RODNEY GILSTRAP  
UNITED STATES DISTRICT JUDGE